

HOUSE BILL NO. HB0196

Industrial Siting Act-amendments.

Sponsored by: Representative(s) Meyer, Craft and Hallinan and Senator(s) Cooper, Geis, Hastert and Vasey

A BILL

for

1 AN ACT relating to industrial development and siting;
2 providing for industrial siting impact assistance payments
3 for oil and gas impacts on local governments as specified;
4 providing procedures; amending related provisions; and
5 providing for an effective date.

6

7 *Be It Enacted by the Legislature of the State of Wyoming:*

8

9 **Section 1.** W.S. 35-12-120 is created to read:

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11 **35-12-120. Oil and gas impact assistance.**

12

13 (a) Any city or town adequately demonstrating impact
14 costs of not less than two hundred fifty thousand dollars
15 (\$250,000.00) as approved by the industrial siting council
16 which costs are in excess of its annual budget due to oil

1 or gas related production activities within its county may
2 file an application for assistance as provided in this
3 section. If approved by the council following a hearing as
4 provided by this section, the city or town may be eligible
5 for impact assistance payments as provided by W.S.
6 39-15-111(c) and 39-16-111(d).

7

8 (b) The petition shall be filed with the council in a
9 form and manner as required by rule and regulation of the
10 council. The petition shall identify the cause for the
11 impact, the probable impacted area, the nature of the
12 impact and any recommended remedy. The petition shall
13 include any of the social, economic or environmental
14 impacts as provided by W.S. 35-12-109(a)(xiii). Not later
15 than thirty (30) days from receipt of the petition, the
16 administrator shall review the petition and make a
17 preliminary determination whether the petition meets the
18 requirements of the rules and regulations of the council.
19 The administrator may seek information and recommendations
20 from the agencies listed in W.S. 35-12-110(b), and any
21 information shall be provided as required by W.S.
22 35-12-110(c).

23

1 (c) Not later than sixty (60) days following receipt
2 of an eligible petition, the council shall hold a hearing
3 on the petition. At the hearing, the administrator may
4 present an opinion, analysis and any recommendation on the
5 petition if requested by the council. Not later than ten
6 (10) days following conclusion of the hearing, the council
7 shall make a final determination. The final determination
8 shall be in writing and shall include any amount of impact
9 assistance payments awarded under W.S. 39-15-111(c) or
10 39-16-111(d). In the event impact assistance payments are
11 awarded by the council, the payments shall be paid from the
12 general fund from sales and use taxes collected and
13 computed and distributed as provided by W.S. 39-15-111(c)
14 and 39-16-111(d). In no event shall any payments awarded
15 exceed thirty-six (36) months in duration. No city or town
16 currently receiving impact assistance payments shall be
17 eligible for any payment under this section. The council
18 may require periodic reports or information from any city
19 or town receiving impact assistance payments under this
20 section.

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22 **Section 2.** W.S. 35-12-119(c)(intro), 39-15-111(c) and
23 (d)(ii) and 39-16-111(d) and (e)(ii) are amended to read:

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1 **35-12-119. Exemptions; information required.**

2

3 (c) Except as provided by W.S. 35-12-120, the
4 construction, operation and maintenance of the following
5 activities are exempt from this chapter:

6

7 **39-15-111. Distribution.**

8

9 (c) The following shall apply to distribution of
10 impact assistance payments:

11

12 (i) If any person commences after the effective
13 date of this act to construct an industrial facility, as
14 that term is defined in W.S. 35-12-102, under a permit
15 issued pursuant to W.S. 35-12-106, or if the federal or
16 state government commences to construct any project within
17 this state with an estimated construction cost as specified
18 in the definition of industrial facility in W.S. 35-12-102
19 the state treasurer shall thereafter pay to the county
20 treasurer and the county treasurer will distribute to the
21 county, cities and towns of that county in which the
22 industrial facility or project is located, impact
23 assistance payments from the monies available under
24 paragraph (b)(i) of this section. Each payment to the

1 county treasurer shall be equal to the excess of each
2 monthly payment made under paragraph (b)(iii) of this
3 section during the period of construction over the base
4 period amount and shall continue during the period of
5 construction except that in the case of an industrial
6 facility or a federal or state government project which is
7 expected to continue in phases for an indefinite period of
8 time, the state treasurer shall discontinue payments under
9 this section and establish a new base period when
10 construction of any phase has ceased or been substantially
11 completed for twelve (12) consecutive months. The impact
12 assistance payments shall be distributed to the county
13 treasurer and the county treasurer will distribute to the
14 county and to the cities and towns therein based on a ratio
15 established by the industrial siting council during a
16 public hearing held in accordance with W.S. 35-12-110. The
17 industrial siting council shall review the distribution
18 ratio for construction projects on a regular basis and make
19 appropriate adjustments. A governing body which is
20 primarily affected by the facility, or any person issued a
21 permit pursuant to W.S. 35-12-106, may petition the
22 industrial siting council for review and adjustment of the
23 distribution ratio upon a showing of good cause. The impact
24 assistance payment shall be in addition to all other

1 distributions under this section, but no impact assistance
2 payment shall be made for any period in which the county or
3 counties are not imposing at least a one percent (1%) tax
4 authorized by W.S. 39-15-204(a)(i) and 39-16-204(a)(i) or
5 at least a total of a two percent (2%) sales tax authorized
6 under W.S. 39-15-204(a)(i), (iii) and (vi) and at least a
7 total of a two percent (2%) use tax authorized under W.S.
8 39-16-204(a)(i), (ii) and (v). For purposes of this
9 subsection, the industrial facility or federal or state
10 government project will be deemed to be located in the
11 county in which a majority of the construction costs will
12 be expended, provided that upon a request from the county
13 commissioners of any adjoining county to the industrial
14 siting council, the council may determine that the social
15 and economic impacts from construction of the industrial
16 facility or federal or state government project upon the
17 adjoining county are significant and establish the ratio of
18 impacts between the counties and certify that ratio to the
19 state treasurer who will thereafter distribute the impact
20 assistance payment to the counties pursuant to that ratio~~;~~

21

22 (ii) If any city or town is awarded impact
23 assistance under W.S. 35-12-120, the state treasurer shall
24 pay to the county treasurer and the county treasurer shall

1 distribute to the designated city or town of that county
2 impact assistance payments from the monies available under
3 paragraph (b)(i) of this section. Each payment to the
4 county shall be equal to the excess of each monthly payment
5 made under paragraph (b)(iii) of this section over the base
6 period amount for a period not to exceed thirty-six (36)
7 months or until the amount of impact assistance awarded in
8 W.S. 35-12-120 has been reached, whichever occurs first.
9 If the amount of impact assistance has not been reached in
10 thirty-six (36) months the city or town may submit a
11 request to the industrial siting council for further impact
12 assistance under W.S. 35-12-120.

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14 (d) As used in subsection (c) of this section:

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16 (ii) "Base period amount" is the average monthly
17 distribution under paragraph (b)(iii) of this section for
18 the twelve (12) month period immediately prior to the
19 commencement of construction under paragraph (c)(i) of this
20 section or the commencement of the new oil and gas activity
21 identified under W.S. 35-12-120, whichever is applicable,
22 provided that on each anniversary date of commencement of
23 construction or commencement of the new oil and gas
24 activity identified under W.S. 35-12-120 the state

1 treasurer shall establish a new base period amount by
2 multiplying the base period amount by a factor representing
3 the annual rate of inflation in this state for the
4 preceding twelve (12) month period as calculated by the
5 department of administration and information.

6

7 **39-16-111. Distribution.**

8

9 (d) The following shall apply to distribution of
10 impact assistance payments:

11

12 (i) If any person commences after the effective
13 date of this act to construct an industrial facility, as
14 that term is defined in W.S. 35-12-102, under a permit
15 issued pursuant to W.S. 35-12-106, or if the federal or
16 state government commences to construct any project within
17 this state with an estimated construction cost as specified
18 in the definition of industrial facility in W.S. 35-12-102
19 the state treasurer shall thereafter pay to the county
20 treasurer and the county treasurer will distribute to the
21 county, cities and towns of that county in which the
22 industrial facility or project is located, impact
23 assistance payments from the monies available under
24 paragraph (b)(i) of this section. Each payment to the

1 county treasurer shall be equal to the excess of each
2 monthly payment made under paragraph (b)(iii) of this
3 section during the period of construction over the base
4 period amount and shall continue during the period of
5 construction except that in the case of an industrial
6 facility or a federal or state government project which is
7 expected to continue in phases for an indefinite period of
8 time, the state treasurer shall discontinue payments under
9 this section and establish a new base period when
10 construction of any phase has ceased or been substantially
11 completed for twelve (12) consecutive months. The impact
12 assistance payments shall be distributed to the county
13 treasurer and the county treasurer will distribute to the
14 county and to the cities and towns therein based on a ratio
15 established by the industrial siting council during a
16 public hearing held in accordance with W.S. 35-12-110. The
17 impact assistance payment shall be in addition to all other
18 distributions under this section, but no impact assistance
19 payment shall be made for any period in which the county or
20 counties are not imposing at least a one percent (1%) tax
21 authorized by W.S. 39-15-204(a)(i) and 39-16-204(a)(i) or
22 at least a total of a two percent (2%) sales tax authorized
23 under W.S. 39-15-204(a)(i), (iii) and (vi) and at least a
24 total of a two percent (2%) use tax authorized under W.S.

1 39-16-204(a)(i), (ii) and (v). For purposes of this
2 subsection, the industrial facility or federal or state
3 government project will be deemed to be located in the
4 county in which a majority of the construction costs will
5 be expended, provided that upon a request from the county
6 commissioners of an adjoining county to the industrial
7 siting council, the council may determine that the social
8 and economic impacts from construction of the industrial
9 facility or federal or state government project upon the
10 adjoining county are significant and establish the ratio of
11 impacts between the counties and certify that ratio to the
12 state treasurer who will thereafter distribute the impact
13 assistance payment to the counties pursuant to that ratio; ~~+~~

14
15 (ii) If any city or town is awarded impact
16 assistance under W.S. 35-12-120, the state treasurer shall
17 pay to the county treasurer and the county treasurer shall
18 distribute to the designated city or town of that county
19 impact assistance payments from the monies available under
20 paragraph (b)(i) of this section. Each payment to the
21 county shall be equal to the excess of each monthly payment
22 made under paragraph (b)(iii) of this section over the base
23 period amount for a period not to exceed thirty-six (36)
24 months or until the amount of impact assistance awarded in

1 W.S. 35-12-120 has been reached, whichever occurs first.
2 If the amount of impact assistance has not been reached in
3 thirty-six (36) months the city or town may submit a
4 request to the industrial siting council for further impact
5 assistance under W.S. 35-12-120.

6
7 (e) As used in subsection (d) of this section:

8
9 (ii) "Base period amount" is the average monthly
10 distribution under paragraph (b)(iii) of this section for
11 the twelve (12) month period immediately prior to the
12 commencement of construction under paragraph (d)(i) of this
13 section or the commencement of the new oil and gas activity
14 identified under W.S. 35-12-120, whichever is applicable,
15 provided that on each anniversary date of commencement of
16 construction or commencement of the new oil and gas
17 activity identified under W.S. 35-12-120 the state
18 treasurer shall establish a new base period amount by
19 multiplying the base period amount by a factor representing
20 the annual rate of inflation in this state for the
21 preceding twelve (12) month period as calculated by the
22 department of administration and information.

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1 **Section 2.** This act is effective July 1, 2009.

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(END)